

## **REMARKS**

### **Drawings**

Applicant notes that the drawings are acceptable for examination purposes and will submit formal drawings when the application is allowed.

### **Specification**

Applicant has updated and corrected the continuation data on page 1.

### **Claims Rejections – 35 U.S.C. § 103**

Claims 1-27 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Talish et al, U.S. Pat. No. 6,432,070, in view of Peterson et al., U.S. Pat. No. 6,126,619 and Winder et al., U.S. Pat. No. 5,520,612. Applicant has amended independent claims 1 and 18 to state that the use of ultrasonic energy in the invention is used for increasing the blood flow of the individual upon which the invention is used. Talish is described specifically for treatment of reflex sympathetic dystrophy (RSD). There is no suggestion or teaching to Talish to treat any ailment other than RSD. Similarly, Winder only discusses use of the disclosed device for treatment of bone fractures. As such, it would not have been obvious to modify Talish with Winder as a device to increase the blood flow of the individual, since neither taught such a use. Further, there is no teaching in either Talish or Peterson to modify the operating parameters of Talish to arrive at the invention of the current application. Accordingly, Applicant believes independent claims 1 and 18, as currently clarified, contain patentable subject matter. Applicant requests claims 1 and 18, as well as dependent claims 2-17 and 19-27, be passed to allowance.

Applicant has also added new claim 28 to further clarify the patentable subject matter of the present invention. Claim 28 states that the system for applying ultrasound energy to increase blood flow is a portable apparatus. Such a device, as specified by the claim elements, is not shown in the prior art and is not an obvious combination of the prior art. Applicant requests new claim 28 to be passed to allowance.

### Information Disclosure Statement

Applicant notes that the Information Disclosure Statement mailed by application on 27 May 2003 has not been acknowledged by the Examiner. A photocopy of the Information Disclosure Statement, as well as the return acknowledgment post card, confirming that the Patent Office mail room received these documents, is attached.

A supplemental Information Disclosure Statement is submitted with this Amendment

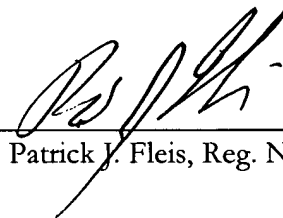
### Conclusion

Applicant notes the other prior art replied upon by the Examiner. Applicant also notes that the Examiner is correct in presuming that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made.

Applicant requests that currently amended claims 1 and 18, original claims 2-17 and 19-27, and new claim 28 be passed to allowance. No new matter has been added to the application.

Respectfully Submitted,

By



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19 August, 2005

Customer No.: 26308

050818 - Amendment A

Enclosures: Amendment Transmittal Letter  
Return Postcard



**FILED IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

PAL/lsw

Serial No.: 09/938,307

Title: Systems and Methods for Applying Pulsed Ultrasonic Energy

Applicant: Suorsa et al.

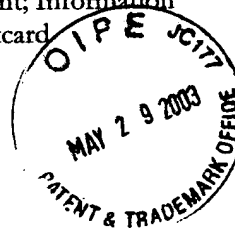
TIMI 3 Systems, Inc.

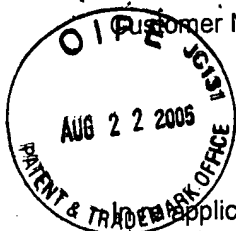
Date Mailed: 27 May 2003

via First Class Mail

Docket #: 9345.17121-CIP B

Enclosures: Transmittal of Information Disclosure Statement; Information  
Disclosure Statement; copies of references cited; return postcard





Customer No. 26308

PATENT

Docket No. 9345.17121-CIP B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Suorsa et al.  
Serial No.: 09/938,307  
Filed: 23 August 2001  
For: Systems and Methods for Applying Pulsed Ultrasonic Energy

Group Art Unit: 3737  
Examiner: Unknown

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN  
THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION  
(37 CFR 1.97(b))

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in S 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

NOTE: The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to S 1.71 and at least one claim pursuant to S 1.75; and (2) any drawing required by S 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by S 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. S 371(c) within the periods set forth in S 1.494 or S 1.495. 35 U.S.C. S 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION  
DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed WITHIN THREE MONTHS OF THE FILING DATE OF THE APPLICATION OR DATE OF ENTRY INTO THE NATIONAL STAGE OF AN INTERNATIONAL APPLICATION OR BEFORE THE MAILING DATE OF A FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURS LAST. 37 CFR 1.97(b).

NOTE: "NO CERTIFICATION OR FEE IS DUE WHEN THE FILING IS MADE WITHIN THE ABOVE TIME PERIOD. IT IS ADVISABLE TO ENSURE THAT NO OFFICE ACTION HAS BEEN MAILED IF THE DISCLOSURE STATEMENT IS DELAYED UNTIL AFTER THREE MONTHS FROM FILING.

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATE OF MAILING (37 CFR 1.8(a)) or (37 CFR 1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below, as First Class Mail in an envelope addressed as follows: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

08/23/2005 MBERHE 00000004 09938307

02 FC:1806

Date: 27 May 2003

180.00-0P

Linda S. Wenzel

Type or print name of person mailing paper

*Linda S. Wenzel*  
(Signature of person mailing paper)



- NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima face* prior art reference against the claims of the present application.

Should any fees be necessary in connection with this submission, please charge same to Account No. 06-2360.

Date 27 May 2003

Reg. No. 50,295

Telephone No.: (262) 783-1300

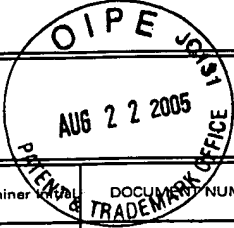
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LIST OF PRIOR ART CITED BY APPLICANT (Use several sheets if necessary)	ATTY DOCKET NO. <b>9345.17121-CIP B</b>	SERIAL NO. <b>09/938,307</b>
	APPLICANT <b>Thompson et al.</b>	
	FILING DATE <b>23 August 2001</b>	GROUP <b>3737</b>

Customer No. 26308



### U.S. PATENT DOCUMENTS

Examiner Initials	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,698,531	12/16/97	Nabel et al.			
	6,254,573	7/3/01	Haim et al.			
	6,261,537	7/17/01	Klaveness et al.			
	5,520,612	5/28/96	Winder et al.			
	5,556,372	9/17/96	Talish et al.			
	6,126,619	10/03/00	Peterson et al.			

### FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

### OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)




EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this of with next communication to applicant.